

# **EXHIBIT A**

**PATENT ASSIGNMENT**

Inventor: Michael De Angelo  
U.S. Patent Nos.: 7,010,536; 7,702,682; 7,873,682  
Application Nos.: 09/284,113; 11/280,700; 12/691,425  
Filing Dates: 1/28/99; 11/14/05; 1/21/10  
Titles: "System and method for creating and manipulating information containers with dynamic registers"

WHEREAS, Incandescent, Inc., a Delaware corporation having an office and place of business at 100 Pine Street, San Francisco, California 94111 (hereinafter referred to as "ASSIGNOR") is the current assignee of the U.S. Patents listed above (hereinafter referred to as the "PATENTS"); and

WHEREAS, Evolutionary Intelligence, LLC, a Delaware limited liability company having an office and place of business at 100 Pine Street, Suite 500, San Francisco, California 94111 (hereinafter referred to as "ASSIGNEE"), is desirous of acquiring the entire right, title and interest throughout the world in and to the PATENTS and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR hereby assigns and transfers unto ASSIGNEE, the entire right, title and interest throughout the world in and to the PATENTS, the inventions described therein, and any and all letters patent which may be granted or have been granted, including all potential, existing, and future causes of action and associated past, present and future damages, for said inventions in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues, continuations, continuations-in-part, and certificates of correction thereof, including the right to file domestic and foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from the applications leading to the PATENTS, said inventions, PATENTS, and all other letters patent deriving from said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNOR had this assignment not been made.

ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue all letters patent on said inventions to ASSIGNEE. ASSIGNOR warrants that ASSIGNOR is the rightful owner of the PATENTS and said invention, and that there are no others who could make a claim against the rights being assigned, and that the rights being assigned are subsisting and are not assigned, licensed, or otherwise diluted in any way. ASSIGNOR further agrees to execute and deliver any further papers and do such other acts as may be necessary and proper to vest full title in and to the PATENTS in the ASSIGNEE. ASSIGNOR further agrees to execute all instruments and documents required for the making and prosecution of foreign and domestic applications for letters patent on said inventions, and for litigation regarding said letters patent. ASSIGNOR also covenants that, if there are any disputes, actions, litigations, trials, or any other

challenges related to the rights being assigned, then ASSIGNOR shall assist ASSIGNEE to the best of ASSIGNOR's ability.

IN WITNESS WHEREOF, ASSIGNOR has caused these presents to be duly executed in a manner appropriate thereto this 9th day of July, 2012.

**ASSIGNOR:**

Incandescent, Inc.

By: Michael De Angelis  
Michael De Angelis  
CEO

Signed before me this 11 day of July, 2012.

John Breyfuss  
Notary Public



**ASSIGNEE hereby accepts this assignment.**

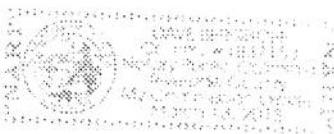
**ASSIGNEE:**

Evolutionary Intelligence, LLC

By: Michael De Angelo  
Michael De Angelo  
Manager

Signed before me this 11 day of July, 2012.

Tom Guglielmo  
Notary Public



## **EXHIBIT B**



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**NOTE: Results display only for issued patents and published applications.**  
**For pending or abandoned applications please consult USPTO staff.**

**Total Assignments: 5****Patent #:** 7010536      **Issue Dt:** 03/07/2006      **Application #:** 09284113      **Filing Dt:** 04/07/1999**Inventor:** MICHAEL DE ANGELO**Title:** SYSTEM AND METHOD FOR CREATING AND MANIPULATING INFORMATION CONTAINERS WITH DYNAMIC REGISTERS**Assignment: 1****Reel/Frame:** 010517/0456      **Recorded:** 04/07/1999      **Pages:** 2**Conveyance:** ASSIGNMENT OF ASSIGNEES INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** DE ANGELO, MICHAEL      **Exec Dt:** 04/05/1999**Assignee:** EMATRIX CORPORATION

SUITE C  
104 WEST ANAPAMU  
SANTA BARBARA, CALIFORNIA 93101

**Correspondent:** FENWICK & WEST LLP

GREG T. SUEOKA, ESQ.  
TWO PALO ALTO SQUARE  
PALO ALTO, CA 94306

**Assignment: 2****Reel/Frame:** 016675/0763      **Recorded:** 06/09/2005      **Pages:** 2**Conveyance:** ASSIGNMENT OF ASSIGNEES INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** EMATRIX CORPORATION      **Exec Dt:** 06/06/2005**Assignee:** PATTERN INTELLIGENCE, INC.  
100 SOUTH SUNRISE WAY  
PALM SPRINGS, CALIFORNIA 92264**Correspondent:** FISH & RICHARDSON P.C.

PO BOX 1022  
MINNEAPOLIS, MN 55440-1022

**Assignment: 3****Reel/Frame:** 022878/0481      **Recorded:** 06/29/2009      **Pages:** 3**Conveyance:** ASSIGNMENT OF ASSIGNEES INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** PATTERN INTELLIGENCE, INC.      **Exec Dt:** 06/26/2009**Assignee:** INCANDESCENT, INC.  
P.O. BOX 15194  
SAN RAFAEL, CALIFORNIA 94915**Correspondent:** SANJEEET K. DUTTA

4 PARK PLAZA  
SUITE 1600  
IRVINE, CA 92614

**Assignment: 4****Reel/Frame:** 022886/0273      **Recorded:** 06/29/2009      **Pages:** 3**Conveyance:** ASSIGNMENT OF ASSIGNEES INTEREST (SEE DOCUMENT FOR DETAILS).**Assignor:** EMATRIX CORPORATION      **Exec Dt:** 06/26/2009**Assignee:** PATTERN INTELLIGENCE, INC.

P.O. BOX 15194  
SAN RAFAEL, CALIFORNIA 94915

**Correspondent:** SANJEEET K. DUTTA  
4 PARK PLAZA  
SUITE 1600  
IRVINE, CA 92614

**Assignment: 5**

**Reel/Frame:** 029142/0299

**Recorded:** 10/17/2012

**Pages:** 3

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignor:** INCANDESCENT, INC.

**Exec Dt:** 07/11/2012

**Assignee:** EVOLUTIONARY INTELLIGENCE, LLC

C/O GUTRIDE SAFIER LLP, 835 DOUGLASS STREET  
SAN FRANCISCO, CALIFORNIA 94114

**Correspondent:** TODD KENNEDY  
835 DOUGLASS STREET  
SAN FRANCISCO, CA 94114

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# **EXHIBIT C**



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**NOTE: Results display only for issued patents and published applications.**  
**For pending or abandoned applications please consult USPTO staff.**

**Total Assignments: 3**

Patent #: [7702682](#) Issue Dt: 04/20/2010 Application #: 11280700 Filing Dt: 11/14/2005  
 Publication #: [20060122987](#) Pub Dt: 06/08/2006  
 Inventor: Michael De Angelo  
 Title: SYSTEM AND METHOD FOR CREATING AND MANIPULATING INFORMATION CONTAINERS WITH DYNAMIC REGISTERS

**Assignment: 1**

Reel/Frame: [017269/0568](#) Recorded: 02/16/2006 Pages: 3  
 Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).  
 Assignor: [DE ANGELO, MICHAEL](#) Exec Dt: 02/13/2006  
 Assignee: [PATTERN INTELLIGENCE, INC.](#)  
 3700 ANDREAS HILLS DRIVE  
 PALM SPRINGS, CALIFORNIA 92264

Correspondent: FISH & RICHARDSON P.C.  
 PO BOX 1022  
 MINNEAPOLIS, MINNESOTA 55440-1022

**Assignment: 2**

Reel/Frame: [022886/0416](#) Recorded: 06/29/2009 Pages: 3  
 Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).  
 Assignor: [PATTERN INTELLIGENCE, INC.](#) Exec Dt: 06/26/2009  
 Assignee: [INCANDESCENT, INC.](#)  
 P.O. BOX 15194  
 SAN RAFAEL, CALIFORNIA 94915

Correspondent: SANJEEET K. DUTTA  
 4 PARK PLAZA  
 SUITE 1600  
 IRVINE, CA 92614

**Assignment: 3**

Reel/Frame: [029142/0299](#) Recorded: 10/17/2012 Pages: 3  
 Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).  
 Assignor: [INCANDESCENT, INC.](#) Exec Dt: 07/11/2012  
 Assignee: [EVOLUTIONARY INTELLIGENCE, LLC](#)  
 C/O GUTRIDE SAFIER LLP, 835 DOUGLASS STREET  
 SAN FRANCISCO, CALIFORNIA 94114  
 Correspondent: TODD KENNEDY  
 835 DOUGLASS STREET  
 SAN FRANCISCO, CA 94114

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## Michael De Angelo

CEO

[San Francisco Bay Area](#) | Internet

Current [CEO at Incandescent, Inc.](#)



1  
connection

[www.linkedin.com/pub/michael-de-angelo/6/246/670](http://www.linkedin.com/pub/michael-de-angelo/6/246/670)

### Experience

**CEO**

**Incandescent, Inc.**  
2008– Present (4 years)

### Contact Michael for:

- getting back in touch

[Send a message to Michael De Angelo](#)

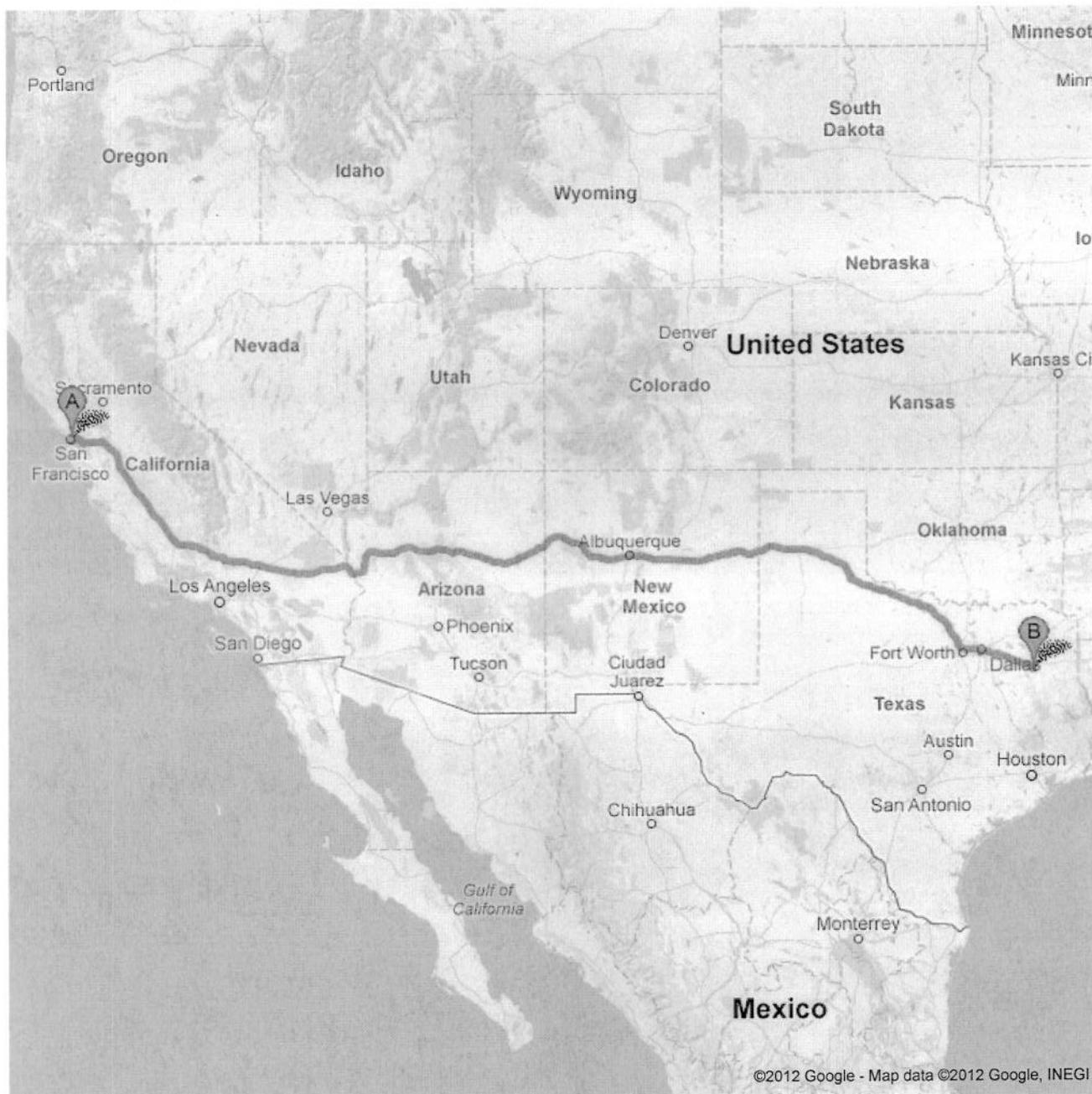
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# **EXHIBIT E**



Directions to Tyler, TX  
1,830 mi – about 27 hours



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San Francisco, CA

1. Head northeast on **Market St** toward **S Van Ness Ave** go 59 ft total 59 ft
2. Take the 1st right onto **S Van Ness Ave** go 0.4 mi total 0.4 mi  
About 2 mins
3. Slight right to merge onto **US-101 S** toward **Interstate 80 E/Oakland/San Jose** go 0.6 mi total 1.1 mi  
About 1 min
4. Take the **Interstate 80** exit on the left toward **Bay Bridge/Oakland** go 0.3 mi total 1.4 mi
5. Merge onto **I-80 E** go 7.2 mi total 8.5 mi  
About 9 mins
6. Take the **Interstate 580 E** exit toward **California 24/Hayward/Stockton** go 0.3 mi total 8.8 mi
7. Continue straight go 0.6 mi total 9.4 mi
8. Continue straight onto **I-580 E** go 62.2 mi total 71.7 mi  
About 55 mins
9. Merge onto **I-5 S** go 188 mi total 260 mi  
About 2 hours 33 mins
10. Take exit **257** for **CA-58** toward **Bakersfield** go 0.3 mi total 260 mi
11. Turn left onto **CA-58 E** go 8.4 mi total 268 mi  
About 10 mins
12. Turn right onto **Enos Ln** go 1.0 mi total 269 mi  
About 3 mins
13. Turn left onto **CA-58/Rosedale Hwy** go 11.6 mi total 281 mi  
About 17 mins
14. Take the ramp onto **CA-58 E/CA-99 S** go 1.7 mi total 283 mi  
About 2 mins
15. Slight right onto **CA-58 E** (signs for **Mojave/Tehachapi**) go 126 mi total 408 mi  
About 1 hour 56 mins
16. Take exit **234A** on the left to merge onto **I-15 N** toward **Las Vegas/I-40** go 4.5 mi total 413 mi  
About 4 mins
17. Continue onto **I-40 E** (signs for **Needles**) go 964 mi total 1,377 mi  
Passing through Arizona, New Mexico  
Entering Texas  
About 13 hours 29 mins
18. Take exit **78** to merge onto **U.S. 287 S** toward **Fort Worth** go 212 mi total 1,588 mi  
About 3 hours 18 mins
19. Take the exit onto **I-44 W/U.S. 287 S** toward **Wichita Falls/Ft Worth** go 3.0 mi total 1,591 mi  
About 3 mins
20. Continue onto **U.S. 287 S** go 105 mi total 1,696 mi  
About 1 hour 32 mins
21. Take the exit onto **I-35W S** go 3.1 mi total 1,699 mi  
About 3 mins

22. Take exit **57A** on the left to merge onto **I-820 E** go 5.6 mi  
About 6 mins total 1,705 mi
- 121** 23. Take exit **22B** to merge onto **TX-121 N/TX-183 E** toward **D/FW Airport/Dallas** go 5.7 mi  
About 6 mins total 1,710 mi
- 183** 24. Slight right onto **TX-183 E** go 15.7 mi  
About 15 mins total 1,726 mi
- 35E** 25. Merge onto **I-35E S** go 5.1 mi  
About 5 mins total 1,731 mi
- 30** 26. Take exit **428A** on the left to merge onto **I-30 E** toward **Texarkana** go 8.0 mi  
About 8 mins total 1,739 mi
- 80** 27. Slight right onto **US-80 E** (signs for **Terrell/Big Town Blvd**) go 19.1 mi  
About 18 mins total 1,758 mi
- 557** 28. Continue onto **TX-557 Spur E** go 4.5 mi  
About 4 mins total 1,763 mi
- 20** 29. Merge onto **Interstate 20 E** go 56.1 mi  
About 47 mins total 1,819 mi
- ↗ 30. Take exit **556** for **US-69** toward **Lindale/Tyler** go 0.2 mi  
About 1 min total 1,819 mi
- ↖ 31. Slight left toward **US-69 S** go 0.1 mi  
About 1 min total 1,819 mi
- 69** 32. Slight right onto **US-69 S** go 8.6 mi  
About 11 mins total 1,828 mi
33. Continue onto **W Gentry Pkwy** go 1.1 mi  
About 3 mins total 1,829 mi
- ↗ 34. Turn right onto **N Broadway Ave** go 0.6 mi  
About 1 min total 1,830 mi
- B** Tyler, TX

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

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## **EXHIBIT F**

**Table C-5.**  
**U.S. District Courts—Median Time Intervals From Filing to Disposition of Civil Cases**  
**Terminated, by District and Method of Disposition,**  
**During the 12-Month Period Ending September 30, 2011**

Circuit and District	Total Cases			No Court Action			Court Action			Trial Number of Cases	Median Time Interval in Months	
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	During or After Pretrial					
							Before Pretrial	Median Time Interval in Months	Number of Cases	Median Time Interval in Months		
TOTAL	245,236	7.3	42,748	5.1	173,367	6.5	26,244	14.3	2,877	23.4		
DC	2,024	7.2	1,003	5.0	988	8.3	14	22.0	19	37.6		
1ST	5,279	9.9	889	4.2	2,718	8.6	1,573	16.8	99	26.4		
ME	471	7.5	171	5.2	277	10.2	13	19.4	10	21.2		
MA	2,601	9.0	409	3.5	1,128	7.0	1,008	14.7	56	28.2		
NH	431	7.9	74	3.0	233	6.5	117	14.1	7	-		
RI	707	17.6	57	9.4	316	9.8	325	77.8	9	-		
PR	1,069	11.3	178	6.3	764	11.3	110	18.7	17	26.0		
2ND	27,165	17.9	4,019	5.6	19,828	29.3	3,012	13.9	306	32.0		
CT	1,822	8.7	911	6.7	800	10.3	65	16.5	46	35.6		
NYN	1,066	10.8	284	4.6	396	9.5	358	17.2	28	33.9		
NYE	5,386	8.8	1,191	6.1	2,914	7.9	1,180	13.8	101	31.3		
NYS	17,354	38.5	1,348	5.1	14,546	44.3	1,345	12.4	115	29.5		
NYW	1,238	9.2	254	3.7	921	9.8	54	35.2	9	-		
VT	299	9.0	31	1.4	251	9.2	10	21.3	7	-		
3RD	68,397	3.3	2,215	3.5	62,397	3.0	3,506	11.6	279	23.4		
DE	827	9.0	164	4.3	610	9.3	14	24.6	39	29.4		
NJ	5,949	6.0	508	3.7	3,311	3.4	2,065	12.9	65	36.0		
PA,E	57,953	2.9	589	2.9	56,025	2.9	1,233	9.6	106	17.6		
PA,M	1,567	6.8	533	3.9	946	8.0	61	16.8	27	24.8		
PA,W	1,796	7.0	281	3.4	1,468	7.8	23	23.6	24	27.6		
VI	305	14.8	140	12.1	37	13.6	110	17.9	18	61.2		
4TH	12,872	8.3	2,636	5.5	8,705	8.4	1,357	11.0	174	18.4		
MD	3,069	7.8	556	6.2	1,875	6.1	604	21.6	34	27.5		
NC,E	971	8.6	256	5.9	698	9.2	12	16.7	5	-		
NC,M	618	9.8	383	8.5	201	13.8	26	17.8	8	-		
NC,W	798	7.9	228	4.9	521	8.8	38	13.1	11	17.3		
SC	2,182	8.7	203	2.9	1,840	9.2	110	11.7	29	22.4		
VA,E	2,496	5.1	447	2.2	1,504	4.6	493	7.9	52	12.3		
VA,W	676	8.8	135	5.3	487	9.2	35	7.8	19	13.1		
WV,N	449	9.3	239	7.6	197	10.7	9	-	4	-		
WV,S	1,613	16.0	189	16.5	1,382	16.0	30	19.1	12	20.3		

Table C-5. (September 30, 2011—Continued)

Circuit and District	Total Cases			No Court Action			Court Action			Median Time Interval in Months	Median Number of Cases	Median Time Interval in Months	Median Number of Cases	Median Time Interval in Months				
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Before Pretrial		During or After Pretrial									
							Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months								
5TH	21,497	10.2	4,867	5.7	12,129	8.6	4,147	45.6	354	22.2								
LA,E	5,455	22.7	76	1.5	1,973	8.7	3,342	50.5	64	18.1								
LA,M	636	11.6	313	8.7	285	13.4	25	24.0	13	35.8								
LA,W	1,349	13.8	423	10.3	838	14.2	51	21.4	37	25.1								
MS,N	771	12.5	188	6.9	416	13.0	151	14.3	16	24.3								
MS,S	1,605	9.5	735	5.0	796	11.4	36	18.2	38	20.4								
TX,N	2,895	6.6	459	5.4	2,391	6.7	4	-	41	23.0								
TX,E	2,087	8.6	515	6.9	1,484	8.7	49	23.9	39	26.1								
TX,S	4,635	6.8	1,486	4.7	2,649	7.0	426	10.8	74	20.0								
TX,W	2,064	7.4	672	5.8	1,297	7.6	63	15.0	32	16.8								
6TH	15,589	9.5	4,116	5.0	7,508	9.7	3,731	12.9	234	24.1								
KY,E	1,315	8.9	178	5.4	1,083	8.8	38	19.7	16	26.8								
KY,W	1,187	10.0	479	8.3	563	8.8	130	20.1	15	25.7								
MI,E	3,537	8.4	774	4.0	1,266	5.8	1,443	12.4	54	20.5								
MI,W	996	6.2	189	1.7	566	6.0	232	11.3	9	-								
OH,N	3,155	10.5	808	3.7	1,502	21.4	803	9.5	42	21.6								
OH,S	2,244	10.3	826	5.8	768	10.8	616	14.2	34	25.4								
TN,E	1,050	12.2	178	3.5	408	10.7	443	16.1	21	26.7								
TN,M	1,163	9.7	225	9.9	914	9.5	5	-	19	23.0								
TN,W	942	11.5	459	8.2	438	12.8	21	22.4	24	30.8								
7TH	14,445	7.5	4,281	5.4	7,714	6.5	2,208	13.2	242	27.3								
IL,N	7,916	6.6	2,287	5.2	4,713	5.8	771	13.5	145	27.1								
IL,C	706	8.8	305	8.0	378	8.8	9	-	14	34.8								
IL,S	1,251	7.6	623	7.4	598	7.7	16	27.5	14	22.7								
IN,N	1,164	11.0	266	4.6	363	9.4	517	15.0	18	31.6								
IN,S	1,847	9.3	435	5.2	789	8.2	601	12.3	22	31.0								
WI,E	1,035	6.9	197	3.2	746	7.1	79	21.8	13	29.3								
WI,W	526	5.1	168	2.6	127	4.2	215	9.7	16	15.0								
8TH	11,876	9.6	4,875	6.8	5,749	10.3	1,058	13.6	194	22.0								
AR,E	1,285	12.7	371	11.8	874	13.0	8	-	32	22.3								
AR,W	762	12.1	52	7.8	695	12.2	0	-	15	15.9								
IA,N	383	9.0	82	11.0	292	8.0	1	-	8	-								
IA,S	551	9.6	126	4.6	271	7.7	132	14.9	22	27.6								
MN	4,428	8.5	2,612	6.6	909	6.5	875	13.1	32	22.7								
MO,E	1,777	7.9	765	5.5	977	9.5	1	-	34	21.7								
MO,W	1,763	8.5	720	5.6	1,012	10.0	10	22.9	21	21.9								
NE	557	8.3	33	2.7	488	8.3	17	15.4	19	19.8								
ND	159	9.7	18	5.8	136	10.0	2	-	3	-								
SD	211	14.2	96	11.8	95	14.2	12	-	8	-								

**Table C-5. (September 30, 2011—Continued)**

Circuit and District	Total Cases			No Court Action			Court Action			Trial Median Time Interval in Months	
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Before Pretrial		During or After Pretrial		
							Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	
9TH											
AK	33,448	7.1	9,629	4.9	20,581	7.5	2,765	13.6	473	22.7	-
AZ	2,647	9.1	67	7.8	211	8.6	4	-	6	-	-
CAN	5,275	8.0	127	2.7	2,463	8.2	24	26.6	33	24.7	-
CAE	3,032	7.9	889	4.0	2,727	6.9	1,604	12.6	55	25.4	-
CAC	11,416	5.6	1,104	5.8	1,863	9.4	31	27.0	34	26.8	-
CAS	2,032	6.5	4,425	4.8	6,680	5.9	138	16.1	173	20.1	-
HI	650	8.5	268	3.0	1,139	4.9	600	12.4	25	28.1	-
ID	423	10.9	345	7.6	245	7.7	41	15.7	19	22.8	-
MT	402	9.2	141	4.5	424	9.6	92	16.3	11	23.2	-
NV	2,228	8.1	326	4.8	1,824	8.4	53	11.9	25	28.5	-
OR	1,835	10.9	725	7.9	1,055	12.1	17	18.6	38	28.4	-
WA,E	559	11.3	226	8.5	307	12.1	18	20.0	8	-	-
WA,W	2,615	6.3	912	3.3	1,650	8.2	12	18.5	41	18.3	-
GUAM	28	14.3	12	13.0	11	15.2	5	-	0	-	-
NMI	18	12.5	16	12.1	1	-	0	-	1	-	-
10TH											
CO	8,523	8.1	1,974	4.9	5,254	7.9	1,127	13.1	168	23.6	-
KS	2,535	5.7	563	2.7	1,829	6.4	95	21.3	48	27.2	-
NM	1,227	8.0	388	5.4	698	8.5	114	19.5	27	24.7	-
OK,N	953	8.5	265	5.4	370	8.0	296	11.0	22	25.6	-
OK,E	693	10.8	48	2.5	623	11.0	8	-	14	21.4	-
OK,W	375	12.0	291	13.0	73	7.8	7	-	4	-	-
UT	1,186	8.8	328	5.1	436	7.6	406	11.3	16	17.2	-
WY	1,291	8.4	71	4.2	1,130	8.2	65	18.5	25	27.8	-
263	8.6	20	2.4	95	4.0	136	10.4	12	12	14.1	-
11TH											
AL,N	24,121	6.8	2,244	4.1	19,796	6.5	1,746	11.9	335	20.4	-
AL,M	2,001	8.3	184	4.8	1,762	8.3	22	26.4	33	18.7	-
AL,S	734	9.9	65	6.1	616	9.7	39	17.3	14	15.7	-
FL,N	572	8.4	126	6.5	426	8.5	10	16.5	10	16.5	-
FL,M	1,039	7.0	36	1.6	973	7.0	13	10.2	17	18.7	-
FL,S	6,750	9.5	306	5.5	6,236	9.2	126	18.5	82	21.6	-
GA,N	7,565	4.8	704	4.0	6,646	4.8	118	10.5	97	15.0	-
GA,M	4,221	6.4	437	2.5	2,323	4.6	1,407	11.0	54	27.2	-
GA,S	719	9.6	211	7.8	487	9.8	6	-	15	22.3	-
520	8.1	175	6.4	327	8.5	5	-	13	13	31.5	-

NOTE: Median time intervals are not computed when fewer than 10 cases reported. This table excludes land condemnations, prisoner petitions, deportation reviews, recovery of overpayments, and enforcement of judgments. Includes cases filed in previous years as consolidated cases that thereafter were severed into individual cases. For fiscal years prior to 2001, this table included data on recovery of overpayments and enforcement of judgments.

# **EXHIBIT G**



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James Okamoto    Patrick Benedicto

**Partner**

Ph. (408) 436 - 2111  
Fax (408) 436 - 2114  
Email: james@OBLLP.com

**James Okamoto** practices intellectual property law with an emphasis on patent preparation and prosecution, client counseling, and litigation support.

Dr. Okamoto has prepared and prosecuted numerous patent applications in a wide range of technological areas, including semiconductor devices and processes, microprocessors and other integrated circuits, computer hardware and software, data networking, and telecommunications. He has significant experience counseling clients regarding offensive and defensive patent strategies and has managed domestic and international patent portfolios for various venture-backed start-up companies. Prior to co-founding the firm, he served as director of intellectual property and corporate counsel at a startup company in the interactive TV industry.

Before his legal career, Dr. Okamoto supervised laboratories in electron microscopy and semiconductor fabrication at the California Institute of Technology. He has published several research papers in peer-reviewed scientific journals, including the *Journal of Applied Physics* and *Physical Review Letters*. As an undergraduate, he worked at NASA's Jet Propulsion Laboratory.

**Education**

- California Institute of Technology, B.S. in Physics, *with honors*, 1988
- California Institute of Technology, M.S. in Applied Physics, 1989
- California Institute of Technology, Ph.D. in Applied Physics, 1993
- Stanford Law School, J.D., 1996

**Admissions**

- California
- Northern District of California
- Court of Appeals for the Federal Circuit
- United States Patent and Trademark Office

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1737 North First Street, Suite 270  
San Jose, CA 95112

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Fax 408-436-2114

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# **EXHIBIT H**



## FISH & RICHARDSON

Intellectual Property | Litigation | Technology



Tamara Fraizer PhD

Principal

[Silicon Valley](#)  
650-839-5097  
[fraizer@fr.com](mailto:fraizer@fr.com)



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Tamara Fraizer is a Principal in Fish & Richardson's Silicon Valley office in California. Her practice emphasizes patent litigation and spans the realms of biology and information technology. She has litigated in numerous federal district courts, and has also tried cases in the US International Trade Commission and participated in reexamination at the USPTO.

Dr. Fraizer began her career as an academic researcher and lecturer in population biology, with emphasis on statistics and computer modeling. She has maintained her technical interests in bioinformatics, data analysis, and software, and, as a registered patent attorney, has prosecuted patents in these areas. She has studied and is interested in open source issues. She is also following developments in personalized medicine, and has assessed and speaks on the role that intellectual property plays in developing and protecting the use of information in healthcare.

As a litigator at Fish & Richardson, Dr. Fraizer crosses practice boundaries. She has litigated cases in the life sciences involving genetic engineering, biochemistry, and physiology. She has also litigated cases focused on electronic devices involving computer code, electronic circuitry, and mechanical design issues. For example, Dr. Fraizer has handled patent infringement cases involving:

- Genetically engineered proteins
- Bioassays
- Biomedical devices
- Automated light switches and door openers
- Internet security systems
- Database management systems

Relationships and a strong work ethic are important to Dr. Fraizer. She appreciates the need to manage cases to meet her clients' goals, without compromising the value of solid knowledge of the facts and sound application of the law. She is active in mentoring associates at her firm, sponsors Fish & Richardson's Silicon Valley Life Sciences Seminars, and regularly attends forums in

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the Valley focused on entrepreneurship and innovation.

**Admissions**

California 2001

United States Patent and Trademark Office 2002

**Memberships and Affiliations**

American Intellectual Property Law Association.

Litigation and Intellectual Property Law Sections of the California Bar.

**Other Distinctions**

California "Super Lawyer" in IP Litigation (2011-2012)

**Education**

BS, University of Kansas 1986

Biology *with honors and highest distinction*

PhD, University of California, Davis 1996

Population Biology

JD, Stanford Law School 2001

# **EXHIBIT I**

# Law Office of Dorian Cartwright

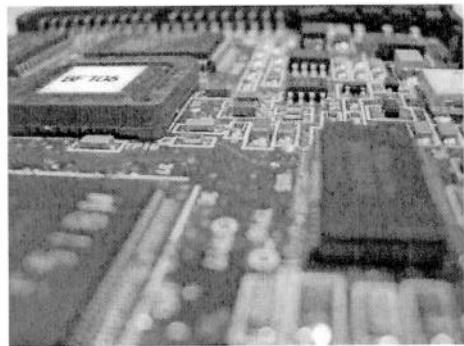
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#### *Patent Expertise In Computers, Networking, Software and Electronics*



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**2130 The Alameda, Suite 200**  
**San Jose, CA 95126**  
**(800)810-8030 (Office and Facsimile)**  
**[Send E-Mail](mailto:info@cartwrightesq.com)** [info@cartwrightesq.com](mailto:info@cartwrightesq.com)

- **Technical & Legal Expertise**

*Patent Attorney registered with the United States Patent & Trademark Office, specializing in electronic arts including computer hardware and software, telecommunications, semiconductors, multimedia*

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## **EXHIBIT J**

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Sanjeet Dutta is a partner in King & Spalding's Silicon Valley office. Mr. Dutta's practice focuses on patent litigation, patent prosecution, licensing agreements and IP diligence and audits. Mr. Dutta has litigated in state and federal courts and before the International Trade Commission.

Mr. Dutta's technology areas of particular expertise include mobile devices, payment systems, geothermal energy, processor architecture, semiconductor memories, semiconductor verification/emulation, semiconductor processing and manufacturing, network routing, caching, cable modem termination systems (CMTS), Cable and Satellite Interactive Programming Guides, Bluetooth protocol, compiler design, video signal processing, and storage area networks.

#### Speaking Engagements

- "Protecting Your Intellectual Property in India," US-India Business Council webinar, May 2, 2012
- "Preparing to Commercialize SBIR/STTR Technology," Foundation for Enterprise Development webinar, May 15, 2012
- "Patent Prosecution for Litigators," Practising Law Institute seminar: "Fundamentals of Patent Litigation," June 6, 2012
- "Countering the Obviousness Rejection," Practising Law Institute seminar: "Advanced Patent Prosecution Workshop," August 20-21, 2012

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# **EXHIBIT K**



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**Mark J. Shean**

Senior Associate  
 Intellectual Property  
 Orange County Office

(949) 852-7765  
[mshean@orrick.com](mailto:mshean@orrick.com)

[vCard](#)

Mark J. Shean, a senior associate in the Orange County office, is a member of the Intellectual Property Group. Mr. Shean's practice includes various aspects of intellectual property law including patent, trademark, copyright and trade secrets. He has experience in drafting and prosecuting patents in technical areas including biotechnology, medical device, e-commerce, telecommunications and hydrocarbon processing.

Mr. Shean has experience in trademark prosecution and represents clients in a variety of fields.

**Related Practice Areas**

- Copyright, Trademark and False Advertising Litigation and Counseling
- IP Counseling and Due Diligence
- Life Sciences
- Patent Litigation
- Patent Prosecution and Counseling

**Education**

- J.D., University of Southern California Gould School of Law, 2001
- M.S., Physiology, Georgetown University, 1997
- B.S., Science Pre-Professional Studies, University of Notre Dame, 1996

**Honors**

- Member, University of Southern California Interdisciplinary Law Journal

- Pharmaceuticals and dietary supplements
- Clothing and apparel
- Musical performance and sound recordings
- Electronics
- E-Commerce
- Medical devices
- Travel and transportation services
- Retail services
- Internet services

Before joining the firm, Mr. Shean was an associate at Lyon & Lyon. He was also a legal assistant with a Los Angeles law firm where he gained experience in probate, tax and administration and estate planning law.

**Admitted in**

- California
- United States Patent and Trademark Office

**Memberships**

- State Bar of California

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# **EXHIBIT L**

# MINTZ LEVIN

Mintz Levin Cohn Ferris Glovsky and Popeo PC

## EDUCATION

George Washington University (JD, with honors)

Harvey Mudd College (BS)

## BAR ADMISSIONS

California

United States Patent and Trademark Office



## Carl A. Kukkonen III

Member

858.314.1535

e-mail [\[vCard\]](#)

Los Angeles | San Diego | San Francisco

Carl's practice focuses on strategic intellectual property counseling, including advice on patent infringement and validity, preparation and prosecution of patent applications, US and international trademark counseling and prosecution, branding strategies, trademark and copyright infringement, domain name disputes, and licensing.

Carl has drafted and prosecuted patents on behalf of entities ranging from individual inventors to large multinationals in diverse technical areas, including clean technology, high technology, and medical devices.

Before joining Mintz Levin, Carl worked for a national intellectual property law firm, a European intellectual property law firm, and a Los Angeles area high-technology incubator as its general counsel.

While in law school, he served as a legal extern for the Honorable Randall R. Rader, US Court of Appeals for the Federal Circuit, as well as for Ranking Member Sen. Joseph R. Biden Jr. in connection with the US Senate Committee on the Judiciary.

### Representative Matters

**Software and High Technology:** enterprise software, Web 2.0 and business methods, cloud computing, big data, mobile phone software and hardware, semiconductors, telecommunications, nanotechnology, optical devices, computer and microchip architecture, signal and image processing

**Medical Devices:** medication delivery devices, wireless health care, patient monitoring systems, physiological sensors, ophthalmic technologies, bone fixation plates and systems

**Clean Technology:** process and atmospheric sensors, solar technologies, water and wind turbines, fuel cells, water purification, energy efficiency technologies

**Miscellaneous:** aerospace, automotive/transportation, food processing

### Recognitions & Awards

*San Diego Daily Transcript:* Top Attorneys (2007 – 2008, 2011 – 2012)

*San Diego Metropolitan:* 40 Under 40 (2009)

### Professional & Community Involvement

Board member, CONNECT

Board member, CleanTECH San Diego (2008 – 2012)

Board member, San Diego MIT Enterprise Forum (2007 – 2011)

Member, Intellectual Property Owners Association (IPO) Software and Business Methods Committee (2012 – 2013)

## PRACTICES

Intellectual Property

Patent Procurement

Valuation & Assessment

Trademark, Copyright & Domain

Name Protection

IP Litigation

## INDUSTRIES

Energy & Clean Technology

Financial Services

Life Sciences

Technology, Communications & Media

Sports, Arts & Entertainment

# **EXHIBIT M**



## FISH & RICHARDSON

Intellectual Property | Litigation | Technology



William E. Hunter

Principal

Southern California  
858-678-4707  
[hunter@fr.com](mailto:hunter@fr.com)



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Bill Hunter is a Principal in the Southern California office of Fish & Richardson P.C. His practice emphasizes patent prosecution and counseling, patent strategy and analysis, development and management of patent portfolios, patent opinions, and due diligence investigations in connection with investments, mergers and acquisitions. Mr. Hunter has significant experience in advising individuals, start-up companies, universities and research institutes, and technology and manufacturing companies.

Mr. Hunter's technical focus encompasses the areas of computer and electrical engineering, including computer software, computer networking, digital systems, and Internet-related technologies; image processing and manipulation; data search, management and visualization; wireless communication devices and systems; RFID (Radio Frequency Identification) devices and systems; solid-state memory devices and control systems; data storage systems, including magnetic and optical disk technologies and RAID (Redundant Array of Independent Disks) and NAS (Network Attached Storage) systems; product marking systems, including ink jet and laser based systems; and instruments, devices and software in medical diagnosis and treatment.

### Admissions

California 1999

United States Patent and Trademark Office 2001

### Other Distinctions

Selected by *San Diego Daily Transcript* as a 2012 Top Attorney of San Diego.

### Education

BS, University of California, San Diego 1995  
Computer Science

JD, University of California, Hastings College of the Law 1999  
*cum laude*

### Services

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# **EXHIBIT N**

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## PATENT LAW WORKS

*a minority-owned law firm*



### Greg Sueoka, Managing Partner

gsueoka@patentlawworks.net  
ph. 801.258.9821

As Managing Partner and Founder of Patent Law Works LLP, Greg brings a wealth of experience and knowledge to the practice of patent law. His development of this new model of patent practice synthesizes his beliefs that with the ubiquity of the global marketplace, the growing complexity of patent laws in many geographic arenas, the old-world model of a practice addicted to billable hours and its guild mentality all result in the need to create a new model.

His practice focus includes intellectual property strategic counseling, domestic and international patent prosecution and intellectual property audits. Greg was recently selected as one of the top 250 leading IP strategists in the world by *IAM Strategy 250*.

With more than 20 years' experience, Greg's practice ranges from strategic business and patent analysis to creating mid and long-term patent protection plans. Patent prosecution and pre-litigation counseling are also emphasized in his work. Greg's clients include companies large and small in information technology. The technology areas include software, computer architecture, computer systems, communications, digital electronics and semiconductors.

Greg's clients have included Apple, Inc., Omniture, Ricoh Innovations, Inc. and Toyota InfoTechnology Center USA, Inc.

His management and leadership experience include founding an intellectual property boutique and serving as Managing Partner of Fenwick & West and Chairman of the Patent Group.

#### Education

University of Utah College of Law, J.D., 1988  
University of Utah, B.S., in computer science emphasizing computer architecture, 1985  
University of Utah, B.S., in political science, *cum laude*, 1984

#### Admissions to Practice

Greg is a member of the California Bar and is registered in the U.S. Patent and Trademark Office as a patent lawyer.

#### Patent Law Works LLP

Silicon Valley Office  
5150 El Camino Real, Suite A-20  
Los Altos, CA 94022  
ph. 650.321.1390

Salt Lake City Office  
165 South Main Street, Second Floor  
Salt Lake City, UT 84111  
ph. 801.258.9820



# **EXHIBIT O**



At Foursquare, we are building products that help you and your friends make the most of where you are... and we could use your help. Foursquare is headquartered in downtown New York City, with offices in San Francisco and London. If you're interested in joining us, check out these opportunities:

Unlimited vacation and sick days

A shiny new laptop of your choice

Competitive salaries and equity packages

Full coverage for medical, dental, and vision insurance

Discounted gym memberships and \$50/month gym reimbursement

Subsidized dinner every night, delicious catered lunches, and tons of fattening snacks.



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Software Engineer, Intern	San Francisco or New York, NY	
Software Engineer, New Grad	San Francisco or New York, NY	
Test Engineering Manager	San Francisco, CA	
UI Designer	New York, NY	
<b>OTHER</b>		
Helpdesk Specialist	New York, NY	
Office Assistant	San Francisco, CA	
Public Relations Director	New York, NY	
<b>PLATFORM</b>		
Developer Advocate	San Francisco or New York, NY	
<b>PRODUCT</b>		
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UX Designer	San Francisco or New York, NY	
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See below for a list of currently available Engineering jobs, and if any appear to be a good match for your skills and interests, please apply to have your profile reviewed by human eyes. If our team has interest in learning more, they will reach out directly. Thank you for stopping by, and if you'd like to receive updates on our Engineer jobs, join our [Talent Community](#).



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  - Information Technology (1 job):**
    - Technical Support Specialist
- Los Angeles, CA:**
  - LivingSocial Adventures (1 job):**
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    - Account Executive (Los Angeles)
- San Francisco, CA:**
  - Design (1 job):**
    - Mobile Designer
  - Engineering - Software Development (3 jobs):**
    - Mobile Developer (SF)

At the bottom, there is a footer with links for "company", "careers", "newroom", and "contact", along with copyright information.

# **EXHIBIT R**

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Account Executive	Sales	Baltimore, MD
		- Headquarters
Account Executive	Sales	San Francisco, CA
Account Executive	Sales	New York, NY
Account Management Intern	Sales	Baltimore, MD
		- Headquarters
Account Management Intern	Sales	Baltimore, MD
		- Headquarters
Account Manager	Sales	New York, NY
Administrator, Business Intelligence	Operations	Baltimore, MD
		- Headquarters
Android Engineer	Engineering	San Francisco, CA
Android Engineer	Engineering	

		Baltimore, MD
		- Headquarters
Associate Data Scientist	Technology	Washington, D.C.
Developer, Business Intelligence	Operations	Baltimore, MD
		- Headquarters
Director, GMS West	Sales	San Francisco, CA
Director, Software Engineering Quality & Automation	Technology	Baltimore, MD
		- Headquarters
Facilities Manager	Facilities	Baltimore, MD
		- Headquarters
Java Engineer	Product Engineering	Baltimore, MD
		- Headquarters
Manager, Relationship Marketing	Marketing	Baltimore, MD
		- Headquarters
Marketing Manager, Global Events	Marketing	Baltimore, MD
		- Headquarters
Mobile Software Engineer	Technology	San Francisco, CA
Mobile Software Engineer	Engineering	San Francisco, CA
Product Manager	Product Management	Baltimore, MD
		- Headquarters
Sales Director	Sales	New York, NY
Software Engineer	Product Engineering	Baltimore, MD
		- Headquarters
Software Engineer	Engineering	Baltimore, MD
		- Headquarters
Sr. Engineer, Creative Services	Creative Services	

		Baltimore, MD
		- Headquarters
Sr. Engineer, UI and Rich Media	Engineering	Baltimore, MD
		- Headquarters
Sr. Financial Analyst	Finance	Baltimore, MD
		- Headquarters
Sr. Java Engineer	Engineering	San Francisco, CA
Sr. Software Engineer	Data Flow	Baltimore, MD
		- Headquarters
Sr. Software Engineer	Engineering	Washington, D.C.
Sr. Software Engineer	Engineering	Baltimore, MD
		- Headquarters
Sr. UX Designer	Product Engineering	Baltimore, MD
		- Headquarters
Technical Support Engineer	Engineering	Baltimore, MD
		- Headquarters
Traffic Coordinator	Operations	Baltimore, MD
		- Headquarters
Web Software Engineer	Product Engineering	Baltimore, MD
		- Headquarters

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# **EXHIBIT S**



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Location: San Francisco, CA, US

Req#

Position Title

Position Summary

132674BR

Market Construction Manager - SF

Manages the coordination of construction projects in the field. Manages individual contributors or subordinate supervisors who oversees field-based construction projects from design through implementation. Manages the timely completion of projects, within budget and that specifications are met. Monitors the work of outside contractors and their personnel. Verifies that all parties involved in construction projects have needed resources to complete project according to plan. Monitors compliance with corporate, federal, state and local plant and construction regulations, policies and procedures. Manages the activities of individual contributors or supervisors in a section or department with accountability for goals, objectives, operational policies. May participate in the development of functional strategy. Has responsibility for hiring, termination, performance and salary decisions.

Position will be filled in one of the following locations: San Francisco California, Oakland California, Santa Rosa California. The Market Construction Manager provides market leadership, program management oversight and project related subject matter expertise to support the market's execution of Sprint's Network Vision and other construction programs within the assigned market.

The Market Construction Manager manages the development and implementation process of a market's services involving market or cross-functional teams focused on the delivery of new or existing projects. Plans and directs schedules and may monitor budget/spending. Monitors the market project from initiation through delivery. Organizes the market activities ensuring completion of the project on schedule and within budget constraints. Manages market construction managers who responsible to deliver construction projects within cost, schedule and quality within their assigned market. Receives assignments in the form of objectives and determines how to use resources to meet schedules and goals. Oversees plans and directs schedules as well as project budgets. Monitors the program/project from initiation through delivery interfacing with internal customer or department personnel.

The Market Construction Manager must have good data interpretation skills, be able to quantify results, produce management reports and present results to executive management. Provides guidance to subordinates within the latitude of established company policies. Recommends changes to policies and establishes procedures that affect immediate organization(s). Manages the activities of individual contributors or supervisors with accountability for goals, objectives, and operational policies. May participate in the development of functional strategy. Has responsibility for hiring, termination, performance, and salary decisions. The Market Project/Construction Manager must also be able to handle the daily tasks of the Construction Manager, these tasks include generation and review of completed bid packages, coordination of site visits with engineers and contractors, generation of project schedules, reporting, implementation of construction standard, site audits, on-site construction management of CGs and other duties as assigned.

Major challenges of this position will be managing multiple vendors, multiple technologies and priorities, as well as managing remote contract employees. This requires extensive program management and matrix management experience, experience with large scale technology deployments, knowledge of site development and construction standards/principles.

Selected candidate must have valid drivers' license and an acceptable driving history based on Motor Vehicle Record (MVR).

Basic Qualifications

- Bachelor's degree and eight years related work experience or twelve years related work experience post high school
- Five years project management experience
- Five years managing construction contractors
- Three years supervisory or management experience

Preferred Qualifications

- Five years' experience working with cross-functional teams. Degree in Engineering, Real Estate, Law or Construction management, plus 8 years of professional experience in the development/construction/deployment/project management including significant experience in RAN construction management, also described as site development experience in the wireless industry. Prior experience in multiple construction and deployment disciplines. PMP is a plus.
- Experience with business principles, financial modeling and decision making (i.e., cost of money, financing, budgets, ROI, etc.).
- Experience with real estate, legal, and/or engineering principles.
- Broad knowledge and experience in wireless site development and equipment technologies.
- Experience developing and managing relationships with vendors and company personnel to resolve problems.
- Experience leading and developing a team environment.
- Project management, master planning/scheduling and matrix management experience.

- Five years reporting and budget experience  
At Sprint, we're more than just talk. We've changed the way people communicate, how they work and how they stay connected on the go. Sprint is widely recognized for developing, engineering and deploying innovative technologies, including the first wireless 4G service from a national carrier in the United States; offering industry-leading mobile data services, leading prepaid brands including Virgin Mobile USA, Boost Mobile, and Assurance Wireless; instant national and international push-to-talk capabilities; and a global Tier 1 Internet backbone. Behind every decision we make, there is a passion and drive to develop technologies to enhance and simplify our customers' lives.

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# **EXHIBIT T**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**KLAUSNER TECHNOLOGIES, INC.,**

§

**Plaintiff,**

§

**vs.**

**CASE NO. 6:11-cv-578**

**INTERACTIVE INTELLIGENCE  
GROUP, INC.**

§  
§  
§  
§  
§

**Defendant.**

§

**ORDER**

Before the Court is Defendant Interactive Intelligence Group, Inc.’s (“Interactive”) Motion to Transfer Venue to the Southern District of Indiana (Docket No. 15). Having considered the parties’ written submissions, the Court **GRANTS** Interactive’s Motion to Transfer and **ORDERS** this action be transferred to the United States District Court for the Southern District of Indiana.

**BACKGROUND**

On November 1, 2011, Klausner Technologies, Inc. (“Klausner”) filed an action against Interactive alleging infringement of U.S. Patent No. 5,572,576 entitled “Telephone Answering Device Linking Displayed Data with Recorded Audio Message” (the ‘576 Patent). Docket No. 1. The ‘576 Patent generally relates to a telephone answering machine that displays voicemail information, such as the name and telephone number of an individual who has left a voicemail. Klausner is a New York corporation, while Interactive is an Indiana corporation with its principal place of business in Indianapolis, Indiana. *See* Docket No. 1 at 2.

## APPLICABLE LAW

Section 1404(a) provides that “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” 28 U.S.C. § 1404(a). The first inquiry when analyzing a case’s eligibility for 1404(a) transfer is “whether the judicial district to which transfer is sought would have been a district in which the claim could have been filed.” *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (“*In re Volkswagen I*”).

Once that threshold is met, courts analyze both public and private factors relating to the convenience of parties and witnesses as well as the interests of particular venues in hearing the case. See *Humble Oil & Ref. Co. v. Bell Marine Serv., Inc.*, 321 F.2d 53, 56 (5th Cir. 1963); *In re Nintendo Co.*, 589 F.3d 1194, 1198 (Fed. Cir. 2009). The private factors are: 1) the relative ease of access to sources of proof; 2) the availability of compulsory process to secure the attendance of witnesses; 3) the cost of attendance for willing witnesses; and 4) all other practical problems that make trial of a case easy, expeditious, and inexpensive. *In re Volkswagen I*, 371 F.3d at 203; *In re Nintendo*, 589 F.3d at 1198. The public factors are: 1) the administrative difficulties flowing from court congestion; 2) the local interest in having localized interests decided at home; 3) the familiarity of the forum with the law that will govern the case; and 4) the avoidance of unnecessary problems of conflict of laws or in the application of foreign law. *In re Volkswagen I*, 371 F.3d at 203; *In re Nintendo*, 589 F.3d at 1198.

The plaintiff’s choice of venue is not a factor in this analysis. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 314–15 (5th Cir. 2008) (“*In re Volkswagen II*”). Rather, the plaintiff’s choice of venue contributes to the defendant’s burden in proving that the transferee venue is “clearly more convenient” than the transferor venue. *Id.* at 315; *In re Nintendo*, 589 F.3d at 1200. Furthermore, though the private and public factors apply to most transfer cases, “they are not

necessarily exhaustive or exclusive,” and no single factor is dispositive. *In re Volkswagen II*, 545 F.3d at 314–15.

## ANALYSIS

### A. Threshold

Interactive asserts that the Southern District of Indiana is a proper venue for all parties because Interactive resides in the district and a substantial part of the activity that relates to this action occurred in Indiana. Docket No. 15 at 1. Klausner does not dispute this claim. Thus, there is no dispute over whether the case could have been filed in the Southern District of Indiana.

### B. Private Factors

#### 1. *Relative Ease of Access to Sources of Proof*

Despite technological advances that certainly lighten the relative inconvenience of transporting large amounts of documents across the country, this factor is still a part of the transfer analysis. *In re Volkswagen II*, 545 F.3d at 316. Courts analyze this factor in light of the distance that documents, or other evidence, must be transported from their existing location to the trial venue. *See id.* This factor will turn upon which party, usually the accused infringer, will most probably have the greater volume of documents relevant to the litigation and their presumed location in relation to the transferee and transferor venues. *See, e.g., id.* at 314–15; *In re Nintendo*, 589 F.3d at 1199; *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009). However, documents that have been moved to a particular venue in anticipation of a venue dispute should not be considered. *In re Hoffman-La Roche Inc.*, 587 F.3d 1333, 1336–37 (Fed. Cir. 2009). Presumably, the bulk of the discovery material relating to a corporate party is located at the corporate headquarters. *See In re Acer Am. Corp.*, 626 F.3d 1252, 1256 (Fed. Cir. 2010).

Both parties in this case are not located in or near the Eastern District of Texas. Interactive is headquartered in Indianapolis, Indiana and most of its relevant documents are

located there while Klausner is incorporated in New York and its relevant documents are presumably located there as well.<sup>1</sup> Docket No. 15 at 7. Specifically, all or substantially all of Interactive's employees, officers, business files and records related to the design, development, sale and support of its products are located in Indianapolis. Docket No. 15-1 at 2.

Klausner contends the location of documents should not be given much consideration, and instead argues the focus of the inquiry should be the location of third party evidence. Klausner believes Interactive's call center customers are third party direct infringers, and Klausner argues evidence about these customers can be obtained from call centers, many of which are located in Texas. Docket No. 22 at 4. However, Klausner has not explained why call centers are relevant in this case as the '576 Patent concerns voicemail products and the '576 Patent makes no specific reference to call centers.<sup>2</sup> Interactive admits it offers voicemail products for sale to the public and it acknowledges there are Interactive customers that reside within 100 miles of the federal courthouse in Tyler, Texas who have purchased these products. However, many more customers are located in the Southern District of Indiana, with several customers living within walking distance of the federal courthouse in Indianapolis, Indiana. Docket No. 28 at 2. Interactive also concedes there are some customer sales documents located in Texas, but argues the majority of these documents are located in Indiana. Docket No. 15 at 7.

Accordingly, this favor weighs in favor of transfer.

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<sup>1</sup> Interactive assumes Klausner's relevant documents are located in New York, because Klausner maintains offices in New York. Klausner did not dispute this assumption in its response to Interactive's Motion to Transfer. *See* Docket No. 22.

<sup>2</sup> Klausner failed to identify the allegedly infringing products and merely asserted that Interactive "has infringed, contributes to infringement, and induces others to infringe the '576 Patent and, unless enjoined, will continue to infringe the '576 Patent by manufacturing, using, selling, offering for sale, or by using the method(s) claimed in the Patent or by contributing to or inducing others to make, use, sell, or offer to sell, the claimed invention or use the claimed method(s) without license or permission from Plaintiff." Docket No. 1 at 3.

## 2. Convenience of Witnesses

This factor is analyzed giving broad “consideration [to] the parties and witnesses in all claims and controversies properly joined in a proceeding.” *In re Volkswagen I*, 371 F.3d at 204. All potential material and relevant witnesses must be taken into account for the transfer analysis, irrespective of their centrality to the issues raised in a case or their likelihood of being called to testify at trial. *See In re Genentech*, 566 F.3d 1343 (“Requiring a defendant to show that a potential witness has more than relevant and material information at this point in the litigation or risk facing denial of transfer on that basis is unnecessary.”).

The Fifth Circuit has adopted a “100 mile rule” to assist with analysis of this factor. *See In re Volkswagen I*, 371 F.3d at 204–05. “When the distance between an existing venue for trial of a matter and a proposed venue under § 1404(a) is more than 100 miles, the factor of inconvenience to witnesses increases in direct relationship to the additional distance to be traveled.” *Id.* at 205. When applying the “100 mile rule” the threshold question is whether the transferor and transferee venues are more than 100 miles apart. *See In re Volkswagen II*, 545 F.3d at 317; *In re TS Tech USA Corp.*, 551 F.3d 1315, 1320 (Fed. Cir. 2008). If so, then a court determines the respective distances between the residences (or workplaces) of all the identified material and relevant witnesses and the transferor and transferee venues. *See In re Volkswagen II*, 545 F.3d at 317; *In re TS Tech*, 551 F.3d at 1320. The “100 mile rule” favors transfer (with differing degrees) if the transferee venue is a shorter average distance from witnesses than the transferor venue. *See In re Volkswagen II*, 545 F.3d at 317; *In re TS Tech*, 551 F.3d at 1320. Furthermore, the existence or non-existence of direct flights can impact the analysis of travel time. *See In re Volkswagen I*, 371 F.3d at 204 & n.3. Thus, regardless of the “straight line” distances calculated for the “100 mile rule,” if “travel time” distances favor the transferee venue,

then this factor will favor transfer. However, the “100 mile rule” should not be rigidly applied. *See In re Genentech*, 566 F.3d at 1344. When a particular witness will be required to travel “a significant distance no matter where they testify,” then that witness is discounted for purposes of the “100 mile rule” analysis. *See id.* (discounting European witnesses and documents transported from Washington D.C. in the convenience analysis when reviewing a denial of transfer from Texas to California).

As discussed above, Interactive resides in the Southern District of Indiana and many, if not all, of its witnesses reside in Indiana. Docket No. 15 at 9–10. As for the Plaintiff’s witnesses, the two named inventors of the ‘576 Patent live in New York and California, therefore neither forum is more convenient. Docket No. 15 at 9. Additionally, Klausner itself is located in New York. *See* Docket No. 28 at 3. Klausner contends it would be less convenient for Interactive’s customers to attend trial in Indiana, however Interactive notes there are many more Interactive customers located in the Southern District of Indiana than the Eastern District of Texas. Docket No. 28 at 2. Accordingly, this factor weighs in favor of transfer.

### *3. Availability of Compulsory Process*

This factor will weigh more heavily in favor of transfer when more third-party witnesses reside within the transferee venue. *See In re Volkswagen II*, 545 F.3d at 316. This factor will weigh the heaviest in favor of transfer when a transferee venue is said to have “absolute subpoena power.” *Id.* “Absolute subpoena power” is subpoena power for both depositions and trial. *In re Hoffmann-La Roche Inc.*, 587 F.3d at 1338.

Klausner argues transfer would be inappropriate because Interactive has not identified any non-party witnesses located in the Southern District of Indiana. Docket No. 22 at 5. Interactive counters that there are no non-party witnesses within 100 miles of Tyler, Texas.

Docket No. 15 at 8. Klausner also argues transfer would be inappropriate because information about Interactive's customers can be obtained from call centers located in the Eastern District of Texas. Docket No. 22 at 5. As discussed above, Klausner has not sufficiently demonstrated why call centers are relevant in this action. Interactive admits it sells voicemail products to customers located throughout the country but Interactive argues there are substantially more customers located within the subpoena power of the Southern District of Indiana than this district. Accordingly, this factor weighs in favor of transfer.

#### ***4. Other Practical Problems***

Practical problems include those that are rationally based on judicial economy. Particularly, the existence of duplicative suits involving the same or similar issues may create practical difficulties that will weigh heavily in favor or against transfer. *In re Volkswagen of Am., Inc.*, 566 F.3d 1349, 1351 (Fed. Cir. 2009) ("*In re Volkswagen III*").

Klausner argues that this case should not be transferred because there are currently over fifty cases pending in this district involving the '576 Patent. It would be more efficient, Klausner contends, for one judge to hear all the cases in order to avoid duplicative briefing and rulings. While this Court may yet become familiar with the '576 Patent, it is not now. This case is still in its infancy; no discovery or status conference has taken place yet, and it would not overly prejudice Klausner if the case was transferred to the Southern District of Indiana.<sup>3</sup> Accordingly, this factor is neutral.

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<sup>3</sup> Most of the pending cases involving the '576 Patent have not yet been to status conference. The first *Markman* is still approximately three months away.

### C. Public Factors

#### 1. Local Interest

The Fifth Circuit has explained that “[j]ury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.” *In re Volkswagen I*, 371 F.3d at 206. This factor analyzes the “factual connection” that a case has with both the transferee and transferor venues. *See id.* Generally, local interests that “could apply virtually to any judicial district or division in the United States” are disregarded in favor of particularized local interests. *In re Volkswagen II*, 545 F.3d at 318 (in a products liability suit, disregarding local interest of citizens who used the widely-sold product within the transferor venue); *In re TS Tech*, 551 F.3d at 1321. Thus, when products are sold throughout the United States, citizens of a venue do not have a particularized interest in deciding the dispute simply based on product sales within the venue. *In re Nintendo*, 589 F.3d at 1198.

Here, Interactive is headquartered in the Southern District of Indiana, while Klausner is located in New York. While Interactive has customers in Texas, there are Interactive customers located in Indiana as well. Accordingly, the Southern District of Indiana has a strong local interest in the underlying suit, and thus this factor strongly favors transfer.

#### 2. Court Congestion

The speed with which a case can come to trial and be resolved is a factor in the transfer analysis. *In re Genentech*, 566 F.3d at 1347. This factor appears to be the most speculative, and this factor alone should not outweigh other factors. *Id.*

Klausner argues that this case should not be transferred because the Eastern District of Texas is less congested than the Southern District of Indiana. Interactive admits that the median time to trial is slightly shorter in the Eastern District of Texas, but it notes that there has been a significant increase in the number of cases filed in the Eastern District of Texas since the passage

of the America Invents Act. Docket No. 15 at 11. Accordingly, this factor is neutral or at best slightly weighs against transfer.

*3. Familiarity of Forum with Governing Law*

While Klausner acknowledges that this factor tends to be neutral due to the uniformity of patent law throughout the country, it still argues this factor disfavors transfer because this Court has over fifty cases pending involving the ‘576 Patent. Specifically, Klausner argues that this Court will have a greater understanding of the ‘576 Patent especially after claim construction, which is part of the law governing the case. Docket No. 22 at 9. Klausner however fails to provide any support for its position why the two courts are not equally capable of applying patent law. Accordingly, this factor is neutral.

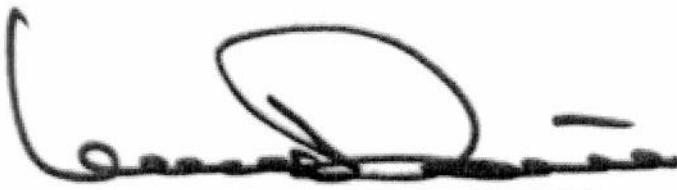
*4. Conflict of Laws*

The remaining public factor is not disputed by the parties, thus it is neutral in the analysis.

**CONCLUSION**

Taridium has shown that it is clearly more convenient for the parties and witnesses to transfer the instant case to the Southern District of Indiana. The relative ease of access to sources of proof, convenience of the witnesses, the availability of compulsory process, and local interest factors strongly favor transfer, while the court congestion factor slightly favors keeping the case. The remaining factors are neutral. Accordingly, the Court **GRANTS** Interactive’s Motion to Transfer Venue and **ORDERS** the case be transferred to the United States District Court for the Southern District of Indiana.

So ORDERED and SIGNED this 26th day of September, 2012.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS".

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**LEONARD DAVIS**  
UNITED STATES DISTRICT JUDGE